

MINUTES OF THE
SPECIAL MEETING – CITY COUNCIL
APRIL 15, 2008

The special meeting of the City Council of the City of Benicia was called to order by Mayor Elizabeth Patterson at 6:01 p.m. on Tuesday, April 15, 2008, in the City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

ROLL CALL:

Present: Council Members Campbell, Hughes, Ioakimedes, Schwartzman, and Mayor Patterson

Absent: None

PLEDGE OF ALLEGIANCE:

Mr. Rob Sousa led the pledge to the flag.

FUNDAMENTAL RIGHTS:

A plaque stating the Fundamental Rights of each member of the public is posted at the entrance to the Council Chambers per Section 4.04.030 of City of Benicia Ordinance No. 05-6 (Open Government Ordinance).

OPPORTUNITY FOR PUBLIC COMMENT:

None

ANNOUNCEMENT OF CLOSED SESSION:

Lisa Wolfe, City Clerk, read the announcement of Closed Session

CLOSED SESSION:

- A. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Subdivision (a) of Government Code Section 54956.9)
Name of case: Mary Wika v. City of Benicia**

ADJOURN TO CLOSED SESSION:

Mayor Patterson adjourned the meeting to Closed Session at 6:02 p.m.

RECONVENE OPEN SESSION:

Mayor Patterson reconvened the Open Session at 6:25 p.m.

INFORMATIONAL ITEM:

Update on Priority Projects and Policy Issues

Jim Erickson, City Manager, reviewed the staff report and a PowerPoint presentation (hard copy on file).

1. Commandant's Residence Restoration:

Council and Staff discussed the \$3.2 million in secured funding.

2. Benicia Business Park:
Staff confirmed that when the new project was reviewed by the Planning Commission, it wanted either more time to review the large set of conditions recommended by Staff, or in lieu of that, a potential development agreement. Without agreement on either of those items by the applicant, the Planning Commission went ahead with the recommendation of denial. The development agreement was not part of the motion for the Planning Commission's action.
3. First Street Pedestrian Friendly Improvements:
Council and Staff discussed installing hanging flower baskets that could be tied into the watering system, painting of parking tees, enforcement for not parking in the tees, benches, Benicia Middle School teacher volunteering to build a bench if the City purchased the supplies, cost of the blue trash cans, damage to sidewalks in the Downtown area due to City owned trees, lighting on the trees, traffic calming, and bulb outs.
4. State Park Road Bike/Pedestrian Bridge Project:
Council and Staff discussed funding and Caltrans approval.
5. Police Building Improvements:
Council and Staff discussed the issue of flooding.
6. Community Center:
Council and Staff discussed using a phased approach, if it was possible to move the Boy Scouts and Girl Scouts in early to help pay for some of the costs, possibly devoting 30 minutes each for Council to visit the Police building and the Community Center.
7. Climate Change Prevention:
Council and Staff discussed incentives for residents to use solar and wind power, various financing mechanisms for residents, and the lighting retrofits that the City has completed.
8. Comprehensive Tourism Plan:
No comments.
9. Arsenal Specific Plan and EIR:
No comments.
10. Ferry Service to Downtown:
No comments.
11. BHS Traffic Signal Project:
Council and Staff discussed desire for speeding up the process.
12. Library Basement:
No comments.

Council and Staff discussed the Policy Calendar, and discussing the appointment process sooner than it was scheduled for.

ADJOURNMENT:

Mayor Patterson adjourned the meeting at 7:08 p.m.

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
APRIL 15, 2008

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Elizabeth Patterson at 7:08 p.m. on Tuesday, April 15, 2008 in the City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

ROLL CALL:

Present: Council Members Campbell, Hughes, Ioakimedes, Schwartzman, and Mayor Patterson

Absent: None

PLEDGE OF ALLEGIANCE:

Vice Mayor Campbell led the pledge to the flag.

FUNDAMENTAL RIGHTS:

A plaque stating the Fundamental Rights of each member of the public is posted at the entrance to the Council Chambers per Section 4.04.030 of City of Benicia Ordinance No. 05-6 (Open Government Ordinance).

ANNOUNCEMENTS/APPOINTMENTS/PRESENTATIONS/PROCLAMATIONS:

ANNOUNCEMENTS:

Action taken at Closed Session:

Ms. McLaughlin reported that Council discussed the case and gave direction to Staff.

Openings on Boards and Commissions:

- Sky Valley Open Space Committee:
One unexpired term to September 30, 2010
- Human Services and Arts Board:
Two unexpired terms, one to June 30, 2008, and one to June 30, 2009
Two full terms to June 30, 2012
- Benicia Housing Authority Board of Commissioners:
One full term to June 30, 2012
- Economic Development Board:
Two full terms to June 30, 2012
- Library Board of Trustees – Poet Laureate:
One full term to June 30, 2010
- Solano Transportation Authority Pedestrian Advisory Committee:
Immediate opening – Three-year term
- Tri-City and County Cooperative Planning Group Citizen Advisory Committee:
Immediate opening

Mayor's Office Hours:

Mayor Patterson will maintain an open office every Monday (except holidays) in the Mayor's Office of City Hall from 6:00 p.m. to 7:00 p.m. No appointment is necessary.

Other meeting times may be scheduled through the City Hall office at 746-4210 or by email acardwell@ci.benicia.ca.us.

Council discussed the ad hoc committee that was formed to address the appointment process, concerns regarding the appointment process, holding off on appointments until the process was addressed by the ad hoc committee, lack of communication on the issue, suggested withdrawal of appointments until the 5/21 meeting, the Mayor's office hours and availability, moving forward with the scheduled appointments, the appointment process being broken, the need for representation on the boards and commissions, and connecting the dots with the boards and commissions.

APPOINTMENTS:

RESOLUTION 08-27 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF LESLIE LESSENGER TO THE HUMAN SERVICES AND ARTS BOARD TO AN UNEXPIRED TERM TO JUNE 30, 2008

The above Resolution was approved, on roll call by the following vote:

Ayes: Council Members Campbell, Ioakimedes, and Mayor Patterson

Noes: Council Members Hughes and Schwartzman

RESOLUTION 08-28 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF CAROL DAY TO THE SOLANO TRANSPORTATION AUTHORITY PEDESTRIAN ADVISORY COMMITTEE FOR A THREE-YEAR TERM

The above Resolution was approved, on roll call by the following vote:

Ayes: Council Members Campbell, Ioakimedes, and Mayor Patterson

Noes: Council Members Hughes and Schwartzman

RESOLUTION 08-29 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF DAN SMITH TO THE TRI-CITY AND COUNTY COOPERATIVE PLANNING GROUP CITIZEN ADVISORY COMMITTEE

The above Resolution was approved, on roll call by the following vote:

Ayes: Council Members Campbell, Ioakimedes, and Mayor Patterson

Noes: Council Members Hughes and Schwartzman

Mayor Patterson requested Staff take all appointments off of future agendas until the appointment process was addressed.

PRESENTATIONS:

None

PROCLAMATIONS:

1. Recognition of Anthony J. Horner, City of Benicia Firefighter/Paramedic
(Continued to a future meeting)

2. National Volunteer Week – April 27 – May 3, 2008
3. National Public Safety Telecommunicators’ Week – April 13-19, 2008
4. Child Abuse Prevention Month – April, 2008
5. West Nile Virus and Mosquito Vector Control Awareness Week – April 21-25, 2008

ADOPTION OF AGENDA:

On motion of Council Member Schwartzman, seconded by Council Member Hughes, the Agenda was adopted as presented, on roll call by the following vote:

Ayes: Council Members Campbell, Hughes, Ioakimedes, Schwartzman, and Mayor Patterson

Noes: None

OPPORTUNITY FOR PUBLIC COMMENT:

WRITTEN:

Various items submitted (hard copies on file).

PUBLIC COMMENT:

1. Anne Hansen – Ms. Hansen discussed her birthday and the Benicia Historical Museum’s garden.
2. Marilyn Bardet – Ms. Bardet discussed concerns regarding the proposed Benicia Business Park project, where LSA’s addendum was, the need for a geo-tech study, lack of time to do what needs to be done properly, today’s economy, and the need to think this through as a comprehensive project.

Council and Staff discussed the timing aspect for review of the proposed project.

3. Bernice Deweber – Ms. Dewebber wanted to discuss the proposed tree ordinance. She was instructed to wait until the item was discussed later in the agenda.
4. Steven Camden – Mr. Camden discussed Opening Day on the Strait festivities.
5. Rick Ernst – Mr. Ernst discussed the ‘Keep Our State Parks Open’ campaign, using pedestrian flags on First Street for traffic calming, new production ‘Sugar Baby’ by Old Town Theatre Group.
6. Karen Posey – Ms. Posey discussed concerns regarding the temporary liquor license issued to Longs Drugs.
7. Phyllis Wika – Ms. Wika discussed concerns regarding the temporary liquor license issued to Longs Drugs.

Council and Staff discussed the delegate authority that City Manager has on behalf of the City. Mayor Patterson asked that Staff work with the City Attorney to prepare something and get back to Ms. Wika and Ms. Posey on their concerns and report back to Council.

8. Sabina Yates – Ms. Yates wanted to discuss concerns regarding campaign contributions. Mayor Patterson advised Ms. Yates to wait until the item was discussed later in the agenda.
9. Steve Goetz – Mr. Goetz discussed concerns regarding Seeno’s proposed Benicia Business Park project and concerns raised at the most recent Planning Commission meeting regarding the project.

10. Susan Street – Ms. Street discussed concerns regarding Seeno’s proposed Business Park project, prior Council statements regarding ‘no big box,’ and the need for a developer agreement.
11. Bob Craft – Mr. Craft discussed the recent ‘Every 15 Minutes’ program.
12. Jeanine Seeds – Ms. Seeds discussed concerns regarding the temporary liquor license that was issued to Longs Drugs, issues raised at the recent Planning Commission meeting regarding CC&R’s and Seeno’s proposed Benicia Business Park project, and concerns regarding the lack of information in the Council minutes.
13. Jon Van Landschoot – Mr. Van Landschoot discussed concerns regarding the public comment limitations at Council meetings, and allowing people to speak when they need to speak on any given item.
14. Vice Mayor Campbell discussed the Benicia Bicycle Race and the Gold and Gumbo events. He suggested the EDB get involved in helping to promote the events.

CONSENT CALENDAR:

Council pulled items VII-G and VII-I.

On motion of Council Member Schwartzman, seconded by Council Member Ioakimedes, the Consent Calendar was adopted as amended, on roll call by the following vote:

Ayes: Council Members Campbell, Hughes, Ioakimedes, Schwartzman, and Mayor
Patterson

Noes: None

The Minutes of April 1, 2008 were approved.

RESOLUTION 08-30 - A RESOLUTION ACCEPTING A GRANT DEED OF EASEMENT FOR A SIDEWALK CONNECTION ALONG THE SOUTH SIDE OF WEST C STREET BETWEEN FIRST STREET AND THE WATERFRONT PATHWAY AND AUTHORIZING THE CITY CLERK TO RECORD THE GRANT DEED EASEMENT

RESOLUTION 08-31 - A RESOLUTION RELEASING \$519,006 IN RETENTION FOR THE COMPLETION OF THE SOUTHAMPTON UNIT D-6 SUBDIVISION IN THE BENICIA MCALLISTER AREA ASSESSMENT DISTRICT

RESOLUTION 08-32 - A RESOLUTION ACCEPTING THE LAKE HERMAN PUMP STATION MOTOR CONTROL CENTER REPLACEMENT PROJECT AS COMPLETE, INCLUDING ONE CONTRACT CHANGE ORDER, AUTHORIZING THE CITY MANAGER TO SIGN THE NOTICE OF COMPLETION AND AUTHORIZING THE CITY CLERK TO FILE SAME WITH THE SOLANO COUNTY RECORDER

RESOLUTION 08-33 - A RESOLUTION APPROVING AMENDMENT NO. 4 TO SOLANO WATER AUTHORITY PROJECT AGREEMENT NO. 3, PHASE 2A, WATERSHED-OF-ORIGIN WATER RIGHTS

RESOLUTION 08-34 - A RESOLUTION AUTHORIZING THE EXTENSION OF THE INDEPENDENT AUDITOR CONTRACT FOR ONE YEAR

RESOLUTION 08-35 - A RESOLUTION APPROVING PAYING AND REPORTING THE VALUE OF EMPLOYER PAID MEMBER CONTRIBUTIONS (EPMC) OF EMPLOYEES' COMPENSABLE EARNINGS TO THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM (PERS) FOR CITY MANAGER AND CITY ATTORNEY

RESOLUTION 08-36 - A RESOLUTION APPROVING REMOVING THE CITY MANAGER AND CITY ATTORNEY FROM THE SENIOR MANAGEMENT BARGAINING UNITY AND PUTTING THEM IN THEIR OWN UNIT

Approval to waive the reading of all ordinances introduced and adopted pursuant to this agenda.

(END OF CONSENT CALENDAR)

Council took the following actions:

Consideration of entering a lease agreement to fund a portion of a fire engine purchase:

Council and Staff discussed the issue of prepayment penalties and adding language to the resolution confirming there would be no prepayment penalties after the fourth year of the agreement.

RESOLUTION 08-37 - A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A LEASE AGREEMENT AND AUTHORIZING AND DIRECTING CERTAIN ACTIONS IN CONNECTION THEREWITH

On motion of Council Member Schwartzman, seconded by Council Member Hughes, the above Resolution was adopted as amended, on roll call by the following vote:

Ayes: Council Members Campbell, Hughes, Ioakimedes, Schwartzman, and Mayor Patterson

Noes: None

Acceptance and disbursement of grant funding for barge removal:

Council Member Ioakimedes inquired about the original funding for this project. Ms. McLaughlin informed Council Member Ioakimedes he would have to recuse himself due to a conflict of interest. Council Member Ioakimedes recused himself.

Council and Staff discussed the issue of funding and BCDC's involvement.

RESOLUTION 08-38 - A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE CONTRACTS ACCEPTING AND DISBURSING GRANT FUNDING FOR BARGE REMOVAL ON CITY OWNED WATER PROPERTY

On motion of Council Member Schwartzman, seconded by Council Member Hughes, the above Resolution was adopted, on roll call by the following vote:

Ayes: Council Members Campbell, Hughes, Schwartzman, and Mayor Patterson

Noes: None

Abstain: Council Member Ioakimedes

PUBLIC HEARINGS:

None

ACTION ITEMS:

Review of proposed Tree Ordinance:

Mario Giuliani, Management Analyst, Parks and Recreation Department, and Alyson Fleck, Tree Committee Member, reviewed the staff report. Mr. Giuliani reviewed a PowerPoint Presentation (hard copy on file).

Council and Staff discussed the issues of fees, reducing fees if trees are replaced, cost of getting an arborist report, appeal process, trees that affect views – and how to approach the issue, the City’s current view ordinance, trees that cause substantial damage to property, Council’s appreciation for the Tree Committee’s efforts, the rights of private property owners, confirmation that the City has two certified arborists on staff, the rights of single-family and multiple-family dwellings, tightening up the language on removing trees that are unhealthy, causing damage, etc., steps to take if there are dueling arborist reports (sending the issue to the Tree Subcommittee), and the issue of human health with regards to trees.

Public Comment:

1. Bernice Deweber – Ms. Deweber discussed a palm tree on her property that is a fire hazard. She would like permission to cut the tree down.

Mayor Patterson asked Ms. McLaughlin to talk with Ms. Deweber one-on-one to provide direction on the steps she would need to take.

2. Marcia Stevens – Ms. Stevens discussed concerns regarding property views and values with regards to trees. She would like citizen’s individual views taken into consideration.
3. Lagana Englund – Ms. Englund discussed concerns regarding taking condominium landscaping into consideration and views being blocked by trees.
4. Mr. Anderson – Mr. Anderson discussed urban forestry, available grants for City tree programs, and the need for a tree ordinance in order to access such grants.
5. Marilyn Bardet – Ms. Bardet spoke in support of the proposed tree ordinance. She discussed diseased trees that are full of mistletoe, rental properties with trees that are full of mistletoe, trees blocking solar power, and the possibility of Valero doing a tree-planting program in Benicia.
6. William Dillard – Mr. Dillard discussed the City of Martinez’ view ordinance, as well as how it deals with trees blocking solar power, helping citizens with the arbitration process, and how trees are determined to be ‘heritage trees.’
7. Jon Van Landschoot – Mr. Van Landschoot spoke in support of the proposed tree ordinance. He discussed adding something to address views as well as tree replacement fees.

Council and Staff discussed resources for doing the work the committee needs to do, views – cutting ‘windows’ in trees, concerns regarding fees, clarity in choices available

for Staff, the need for education to be stronger, the issue of public health with regards to trees, helping people in the arbitration process (regarding issues with views), and the \$10,000 from Kinder-Morgan (moving it over to the tree fund).

On motion of Vice Mayor Campbell, seconded by Council Member Schwartzman, Council gave direction to Staff to address the issues raised, provide options to deal with those issues, and bring the ordinance back for a first reading, on roll call by the following vote:

Ayes: Council Members Campbell, Hughes, Ioakimedes, Schwartzman, and Mayor
Patterson

Noes: None

Mayor Patterson called for a 5-minute break.

Approval of preliminary work on an industrial park needs assessment and forming an ad hoc subcommittee:

Amalia Lorentz, Economic Development Manager, reviewed the staff report.

Council and Staff discussed sending the message that the Benicia Industrial Park is the economic engine of the City; it has a lot of needs that are quite extensive, and looking at some of the opportunities through the technology approach.

On motion of Council Member Ioakimedes, seconded by Mayor Patterson, council approved the preliminary work on an industrial park needs assessment and forming an ad hoc subcommittee, on roll call by the following vote:

Ayes: Council Members Campbell, Hughes, Ioakimedes, Schwartzman, and Mayor
Patterson

Noes: None

Consideration of mid-year budget adjustments for Fiscal Years 2007-09:

Rob Sousa, Finance Director, reviewed the staff report.

RESOLUTION 08-39 - A RESOLUTION APPROVING ADJUSTMENTS TO THE MUNICIPAL BUDGETS FOR FISCAL YEARS 2007-2008 AND 2008-2009

On motion of Council Member Schwartzman, seconded by Council Member Hughes, Council adopted the above Resolution, on roll call by the following vote:

Ayes: Council Members Campbell, Hughes, Ioakimedes, Schwartzman, and Mayor
Patterson

Noes: None

INFORMATIONAL ITEMS:

Reports from City Manager:

None

Council Member Committee Reports:

1. Mayor's Committee Meeting - (Mayor Patterson) - Next Meeting Date: April 16, 2008
2. Association of Bay Area Governments (ABAG) - (Mayor Patterson & Vice Mayor Campbell) - Next Meeting Date: April 24, 2008 – Spring General Assembly
3. Audit & Finance Committee - (Vice Mayor Campbell & Council Member Schwartzman) - Next Meeting Date: May 9, 2008
4. League of California Cities. (Mayor Patterson & Council Member Schwartzman) - Next Meeting Date: April 30, 2008
5. School Liaison Committee - (Council Members Ioakimedes & Hughes) -Next Meeting Date: June 12, 2008
6. Sky Valley Open Space Committee - (Vice Mayor Campbell & Council Member Iokimedes) - Next Meeting Date: May 7, 2008
7. Solano EDC Board of Directors (Mayor Patterson & Council Member Ioakimedes) - Next Meeting Date: May 29, 2008
8. Solano Transportation Authority (STA) (Mayor Patterson & Council Member Schwartzman) - Next Meeting Date: May 14, 2008
9. Solano Water Authority/Solano County Water Agency (Mayor Patterson & Vice Mayor Campbell) - Next Meeting Date: May 15, 2008
10. Traffic, Pedestrian and Bicycle Safety Committee (Vice Mayor Campbell & Council Member Hughes) - Next Meeting Date: April 17, 2008
11. Tri-City and County Regional Parks and Open Space (Vice Mayor Campbell & Council Member Hughes) - Next Meeting Date: May 5, 2008
12. Valero Community Advisory Panel (CAP) (Council Member Hughes) - Next Meeting Date: April 24, 2008
13. Youth Action Task Force (Council Members Ioakimedes & Schwartzman) - Next Meeting Date: April 23, 2008
14. ABAG/CAL FED Task Force/Bay Area Water Forum (Mayor Patterson) - Next Meeting Date: April 28, 2008

COUNCIL MEMBER REPORTS:

Request to agendize City Council meetings live, via streaming video, on the Internet:
Council Member Campbell requested Staff bring the supplemental materials on this issue within 3-4 months.

Ms. McLaughlin stated that the Open Government Commission would be having a presentation from two vendors on April 22, 2008. She believed Staff would have a recommendation for Council within that timeframe, if not before.

Council and Staff discussed the issue of having a plan and having the funds to move forward with such a plan.

On motion of Vice Mayor Campbell, seconded by Council Member Hughes, Council gave direction to Staff that after the Open Government Commission reviews the presentation, it should bring this back to Council without hesitation, on roll call by the following vote:

Ayes: Council Members Campbell, Hughes, Ioakimedes, Schwartzman, and Mayor Patterson

Noes: None

Request to agendaize discussion of the campaign reform ordinance:

Vice Mayor Campbell discussed concerns regarding the perception that money buys votes, voluntary recusal clause, concerns regarding mass mailings, and requiring groups who spend money on local election mass mailings fill out same paperwork that the candidates have to - stating who paid for it and how much was spent. He was not looking to rewrite the ordinance, just to tweak it a bit.

Public Comment:

1. Sabina Yates – Ms. Yates discussed concerns regarding campaign finances, donations, and contributions in past elections, donations made by a planning commissioner to a local candidate, and the issue of council members recusing themselves when a conflict arises.

Council discussed the issues of integrity, the City's current conflict of interest requirement, clarification on dates of campaign contributions, campaign contribution limits, having the Open Government Commission review campaigns, setting a dollar limit, discussing such an important item at a late hour, protecting the perception of the system as a whole, PACs pouring money into campaigns, reviewing the effectiveness of the current ordinance, and letting the community know that we own our elections and campaigns.

On motion of Vice Mayor Campbell, seconded by Mayor Patterson, Council agreed to place this item on a future agenda regarding additions to the existing ordinance, including language regarding the voluntary recusal of a Council Member who has taken \$1,000 or more from a party who has a financial interest in a matter before the Council. Another proposed addition would be to require financial disclosure by any group or individual who does a political related mailing or a mailing trying to influence a City Council on an upcoming or potential future City Council agenda item, on roll call by the following vote:

Ayes: Council Members Campbell, Ioakimedes, and Mayor Patterson

Noes: Council Members Hughes and Schwartzman

Council and Staff discussed the upcoming study session on the voluntary campaign expenditure item scheduled for 10/21/08, heavy schedule for various upcoming study session items on agendas, priorities, having this as a study session item to develop Council consensus on the issue, and following the two-step process.

Mayor Patterson summarized by stating that her understanding was for Council to have a public discussion (study session style), looking at two items to be amended into the ordinance – if at all. If Council makes progress on that, it would be brought for a first reading.

ADJOURNMENT:

Mayor Patterson adjourned the meeting at 11:08 p.m.

Lisa Wolfe, City Clerk